

FILED

NOT FOR PUBLICATION

FEB 17 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

SURENDRARAMA NAMASIVAYAM,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 03-74420

Agency No. A79-810-218

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 13, 2006**

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Surendrarama Namasivayam, a native and citizen of Malaysia, petitions for review of the Board of Immigration Appeals' decision summarily affirming an immigration judge's ("IJ") order denying his application for asylum, withholding

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence, and may reverse only if the evidence compels a contrary conclusion. *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001). We deny the petition for review.

The IJ denied relief on the ground that Namasivayam was not credible. The record does not compel a contrary conclusion because Namasivayam presented vague testimony that contained inconsistencies that went to the heart of his claim. *See id*; *Wang v. INS*, 352 F.3d 1250, 1259 (so long as one of the identified grounds is supported by substantial evidence and goes to the heart of the claim of persecution, the Court is bound to accept the IJ’s adverse credibility finding).

In the absence of credible testimony, Namasivayam failed to demonstrate eligibility for asylum or withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003). Namasivayam’s CAT claim also fails because it was based on the same evidence that the IJ found to be not credible. *See id.* at 1157.

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004).

PETITION FOR REVIEW DENIED